

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION

MDL NO. 2804

Case No. 17-MD-2804

Judge Dan Aaron Polster

THIS DOCUMENT RELATES TO:

Rees v. McKesson Corporation, et al.
MDL Case #1:18-OP-45252

DeMaro v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45465

Delancey v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45480

Wood v. Purdue Pharma L.P., et al.
MDL Case #1:18-OP-45264

Cruz v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45466

Stewart v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45481

Salmons v. Purdue Pharma L.P., et al.
MDL Case #1:18-OP-45268;

Paul v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45467

Shenmake v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45482

Ambrosio v. Purdue Pharma L.P., et al.
MDL Case #1:18-OP-45375

Lechuga v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45468

Weatherwax v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45483

Whitley v. Purdue Pharma L.P., et al.
MDL Case #1:18-OP-45598

Brumbarger v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45469

Martinez v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45484

Roach v. McKesson Corporation, et al.
MDL Case No. #1:18-OP-45662

Means v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45470

Warren v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45486

Hunt v. Purdue Pharma L.P., et al.
MDL Case No. #1:18-OP-45681

Peterson v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45472

Carlson v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45487

Hanlon v. Purdue Pharma L.P., et al.
MDL Case No. #1:19-op-45052

Hampel v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45473

Flach v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45488

Frost v. Purdue Pharma L.P., et al.
MDL Case No. #1:18-op-46327

Whittaker v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45475

Ivie v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45489

Moore v. Purdue Pharma L.P., et al.
MDL Case No. #1:18-op-46305

Tuttle v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45476

Cherry v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45490

Artz v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45459

Hamawi v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45477

Ortiz v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45492

Rodriguez v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45463

Gauthier v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45478

Meinecke v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45493

Ellis v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45464

Simonson v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45479

Brant v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45494

Williams, v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45485

**JOINT MOTION FOR 60 DAY STAY OF ALL REMAINING
CLASS CERTIFICATION BRIEFING DEADLINES**

Plaintiffs in the above-captioned cases (“NAS Plaintiffs”) and Defendants identified below¹ respectfully request a 60 day stay of the remaining class certification briefing deadlines in light of the COVID-19 pandemic.² Federal, state and local officials have recommended limiting travel or undertaking activities that require social interactions, and, in some cases, have imposed localized restrictions on business activities. A stay is required to allow the parties to conduct the remaining expert and fact witness depositions necessary to the parties’ class certification briefs.

The parties previously stipulated that the depositions of Defendants’ expert witnesses would be completed by April 8, 2020. The final expert deposition is currently scheduled for April 8, 2020, although the deposition of one expert that was intended to occur on March 13, 2020 has had to be postponed and has not yet been rescheduled. In addition, one putative class representative, Jennifer Artz, is scheduled to be deposed on March 16, 2020. Plaintiffs have additionally stated their intention to depose an additional proposed class member and class representative, Ashley Poe, whose motion to intervene is pending.³

Counsel for the parties agree that significant obstacles created by the COVID-19 response, including government policies implemented to limit the disease’s spread, make the in-

¹ Defendants contend that certain defendants that may be named in the above-captioned cases or amended pleadings are not subject to personal jurisdiction in some or all of these cases, in which Defendants contend that responsive pleadings are not yet due pursuant to the Court’s orders. Defendants submit this filing subject to, and without waiver of, all defenses, including lack of personal jurisdiction, no service of process, or ineffective service of process, in each case.

² On March 11, 2020, the World Health Organization publicly characterized COVID-19 as a pandemic: <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>.

³ Plaintiffs’ counsel will not to seek to add additional class representatives during this stay period, although they reserve the right to so move the Court following the stay if circumstances change.

person depositions of these individuals inadvisable and logistically unmanageable. First, there is a significant potential that several expert witnesses, including doctors with active clinical practices and an epidemiologist, will be involved in handling the response to the pandemic. Second, the health condition of certain witnesses has resulted in certain depositions needing to be rescheduled. Finally, avoiding the travel and close contact necessary to complete the remaining depositions in person is in the best interest of all the witnesses, court reporters, videographers, and attorneys involved.⁴

The parties agree that conducting all depositions remotely is unlikely to be an adequate solution. Several expert witnesses may still be unavailable due to their involvement in the COVID-19 pandemic response or due to illness. In addition, managing exhibits will be challenging and, if videos of the depositions are requested, some travel and personal contact will likely still be required.

For all of these reasons, the parties request that the Court tentatively set the following scheduling deadlines, subject to further deferral if the COVID-19 pandemic does not improve:

	Current Deadline ⁵	Proposed Deadline
Completion of Deposition of Defendants' Expert Witnesses	April 8, 2020	June 8, 2020
Defendants' Opposition to Class Certification	April 10, 2020	June 9, 2020
Plaintiffs' Reply in Support of Class Certification	May 18, 2020	July 17, 2020

⁴ CDC expects that widespread transmission of COVID-19 in the United States will occur, which may overload public health and healthcare systems. It is advising that everyone take steps "to try to delay the spread of the virus and reduce the impact of disease." <https://www.cdc.gov/coronavirus/2019-ncov/summary.html>. Limiting the travel of those involved in these depositions, sometimes as many as fifteen people per deposition, hopefully reduces the risk of transmitting COVID-19 among the general public.

⁵ On March 5, 2020, the Court granted the parties' Joint Motion for Extension of Time (Dkt. 3205), which set the current deadlines.

Dated: March 13, 2020

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CERTIFICATE OF SERVICE

A copy of the foregoing was filed via the Court's electronic filing system on March 13, 2020. Notice of this filing will be sent by e-mail through the Court's electronic case-filing system to all counsel of record.

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